

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Civil No. 17-5217(DSD/HB)

Lorenzo C. Haynes,

Plaintiff,

v.

**ORDER**

Samuel Iten, Correctional Officer;  
Ken Guggisberg, Sgt. Correction  
Officer; Nola Karow, Health Service  
Administrator-Faribault; Jeffrey  
Felt, M.D., Physician; Diane Dau,  
Health Service Administration-  
Stillwater; Brent Plackner, P.A.,  
Physician's Assistant; and Daryl  
Quiram, M.D., Physician, being  
sued in their individual  
and official capacities acting  
under color of state law,

Defendants.

This matter is before the court upon the report and recommendation of Magistrate Judge Hildy Bowbeer, dated July 20, 2018 (R&R). The magistrate judge recommended that the court grant in part and deny in part defendants Samuel Iten, Ken Guggisberg, Nola Karow, and Diane Dau's motion to dismiss. No objections to the R&R have been filed within the time period permitted. See D. Minn. LR 72.2(b)(1). Under these circumstances, the court finds it appropriate to adopt the R&R.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The R&R [ECF No. 98] is adopted in its entirety;
2. The motion to dismiss [ECF No. 30] is granted in part pursuant to Federal Rule of Civil Procedure 12(b)(1) with respect to plaintiff's claims raised under 42 U.S.C. § 1983 against

defendants Samuel Iten, Ken Guggisberg, Nola Karow, and Diane Dau in their official capacities;

3. The motion to dismiss [ECF No. 30] is granted in part pursuant to Federal Rule of Civil Procedure 12(b)(6) with respect to plaintiff's gross negligence claims raised under 42 U.S.C. § 1983 against defendants Samuel Iten and Ken Guggisberg in their individual capacities;

4. The motion to dismiss [ECF No. 30] is granted in part pursuant to Federal Rule of Civil Procedure 12(b)(6) with respect to plaintiff's deliberate indifference to a serious medical need claims raised under 42 U.S.C. § 1983 against defendant Diane Dau in her individual capacity;

5. The motion to dismiss [ECF No. 30] is granted in part pursuant to Federal Rule of Civil Procedure 12(b)(6) with respect to plaintiff's discrimination claims raised under 42 U.S.C. § 1983 against defendants Samuel Iten, Ken Guggisberg, Nola Karow, and Diane Dau in their individual capacities; and

6. In all other respects, the motion to dismiss [ECF No. 30] is denied.

Dated: August 13, 2018

S/David S. Doty  
David S. Doty, Judge  
United States District Court